Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
2000 Biennial Regulatory Review -- Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations	)	IB Docket No. 00-248

September 6, 2005

To: The Commission

Comments of Spacenet Inc. and StarBand Communications Inc.
In Response to Third Further Notice of Proposed Rulemaking

Spacenet Inc. and StarBand Communications Inc. (collectively "Spacenet") welcome this opportunity to respond to the Third Further Notice of Proposed Rulemaking ("Third FNPRM") [1] in this proceeding.

Spacenet supports the Commission's proposed off-axis EIRP envelope for FSS Ku-band digital earth station applications presented in Appendix C of the Third FNPRM. Spacenet believes that the off-axis EIRP envelope for FSS Ku-band digital earth stations will be consistent with existing off-axis antenna gain and power spectral density regulations when considered

---

[1] *In re 2000 Biennial Regulatory Review-- Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations,* Sixth Report and Order and Third Further Notice of Proposed Rulemaking, Released March 15, 2005, IB Docket No. 00-248.

together and with criteria utilized for other frequency bands and in the standards utilized by other radio regulatory and standards organizations.

Spacenet supports codification of a licensing procedure to process applications that do not conform to the off-axis EIRP envelope of Appendix C of the Third FNPRM. Codification of a licensing procedure will help ensure that denial of applications not conforming to the off-axis EIRP envelope would not occur improperly. Denial of such applications could hinder the development of innovative applications that could serve the public interest by bringing new and innovative communication services to the marketplace. Ideally, a coordination process between satellite operators for a non-conforming earth station system would not be used as a tool for eliminating, limiting or delaying the introduction of new communication systems to the marketplace. However, it is possible that this could occur given the fact that satellite operators would have the power to do so. Therefore, Spacenet supports the coordination system outlined in the Third FNPRM[2], but with an additional avenue to pursue for the earth station applicant. For applications not conforming to off-axis EIRP performance regulations, Spacenet supports a process that would permit an applicant to file either i) coordination documentation, or ii) a technical showing for Commission review of harmful interference potential and public interest service. Although the second option does not provide a bright line for processing applications, Spacenet believes

[2] See Third FNPRM paras. 93-96.

that limitation to the first option provides satellite operators with too great an influence over the earth station licensing process.

Spacenet maintains its position in strongly opposing burdensome regulation of VSAT contention protocols. Spacenet stands by its previous comments in this proceeding and believes those comments adequately support Spacenet's position. Spacenet believes other proposals supporting stringent regulation of contention protocols were largely an attempt to harm existing legacy VSAT network implementations by driving existing equipment manufactures to license third party technology. Thus, Spacenet believes the driving motivation for stringent regulation has not been to limit harmful interference, but rather it has been born out of an effort to create a market for those with patented access schemes that would economically benefit from regulation of contention protocols. Spacenet supports the simplification of this issue with the codification of "N" equal to one for FSS Ku-band VSAT networks using contention protocols in the off-axis EIRP envelopes as proposed for SCPC TDMA and FDMA systems in Appendix C of the Third FNPRM.

Conclusion

For the reasons stated herein, Spacenet Inc. and StarBand Communications Inc. urge the Commission to enact off-axis EIRP envelope rules presented in Appendix C of the Third FNPRM that will permit routine licensing of FSS Ku-band VSAT networks and provide a viable process for licensing non-conforming FSS Ku-band antenna systems. Spacenet and StarBand also request that the Commission avoid adoption of an unnecessarily restrictive new regulatory regime related to

VSAT networks using contention protocols to accomplish the public interest goals of this biennial review proceeding and the Commission's strategic goal of furthering broadband deployment.

Spacenet Inc. and

StarBand Communications Inc..

By: /s/ Lesley B. Cooper

Lesley B. Cooper
Senior Counsel
Spacenet Inc. and
StarBand Communications Inc.
1750 Old Meadow Road
McLean, VA 22101
(703) 848-1188